

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
) CRIMINAL NO. 04-10361-NG
 v.)
)
 JOHN HANDY)

GOVERNMENT'S NOTICE OF INTENTION TO INTRODUCE
EVIDENCE PURSUANT TO FED. R. EVID. 404(b)

The United States of America, through its attorneys Michael J. Sullivan, United States Attorney, and Antoinette E.M. Leoney, Assistant U.S. Attorney, hereby gives notice that if Defendant John Handy ("Handy") denies that he had any motive or intent to possess the firearm and ammunition with which he is charged, the government intends to offer testimony regarding his prior state court firearm and drug convictions pursuant to Fed. R. Evid. 404(b).

Further, the government may offer evidence of the prior firearm convictions if the defendant denies knowledge of weapons and ammunition generally. The prior convictions would not be offered to show that the defendant had propensity to engage in the same type of criminal conduct, but that he did in fact have a motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, for possessing the firearm and ammunition.

The prior state convictions are as follows:

- In 1990, the defendant was found guilty of Possession of a Class B Substance with Intent

to Distribute (offense date: August 12, 1990) in Dorchester District Court (Docket #90007-CR-6547), and given a suspended sentence. In 1991, the defendant violated a condition of probation and was committed to the house of correction for one year.

- In 1994, the defendant was found guilty of Possession of a Class B Substance with Intent to Distribute and Possession of a Class B Substance with Intent to Distribute Within 1,000 feet of a School (offense date: February 16, 1993) in the Dorchester Jury Session (Docket #9407-CR-0200), and was sentenced to two years in the house of correction, six months to serve, balance suspended.
- In May 1995, the defendant was found guilty of Assault by a Dangerous Weapon (offense date: April 24, 1995) in West Roxbury District Court (Docket #9506-CR-1756) and received a three-month suspended sentence that, after a probation violation, was eventually imposed.
- In November 1995, the defendant was found guilty of Prisoner Commit Assault/Assault and Battery on a Corrections Officer (offense date: October 4, 1995) in Roxbury District Court (Docket #9502-CR-7773), and sentenced to 90 days imprisonment (concurrent to the sentence then being served).
- In November 1995, the defendant was found guilty of Assault and Battery with a Dangerous Weapon and Assault and Battery (offense date: October 13, 1992) in Brockton Trial Court (Docket #9215-CR-315345), and received a one-year committed sentence.
- In 1997, the defendant was found guilty of Possession of a Class A Substance with Intent to Distribute (offense date: September 28, 1996) in West Roxbury District Court (Docket #9606-CR-3957) and received an 18-month committed sentence.

- In 1998, the defendant was found guilty of Carrying a Dangerous Weapon (offense date: July 3, 1998) in Roxbury District Court (Docket #9802CR4477) and received a 30-day suspended sentence.
- In 2000, the defendant was found guilty of Assault with a Dangerous Weapon (offense date: April 20, 1999) in Brockton Trial Court (Docket #9915-CR-002786). He was sentenced to 18 months in the house of correction, six months to serve; after violating a condition of probation, he was committed for the balance of the sentence (one year).
- In August 2000, the defendant was found guilty of Assault and Battery with a Dangerous Weapon (offense date: April 30, 1999) in Brockton Trial Court (Docket #9915-CR-003069). He was sentenced to 18 months in the house of correction, six months to serve; after violating a condition of probation, he was committed for the balance of the sentence (one year).
- In 2000, the defendant was found guilty of Distributing a Class A Substance and a Drug Violation Near School/Park in Roxbury District Court (Docket #0002-CR-002529) and received a one-year committed sentence.

Further, the defendant has many other convictions for, *inter alia*, illegal drug possession (1985, 1989, 1993, 1994, 1997, and 2003 convictions), receiving stolen property (1989, 1993, 1994, and 1999 convictions), credit card misuse (1992 and 1993 convictions), larceny (1993 and 1999 convictions), and threatening (1995 and 1999 convictions).

Additionally, if the defendant testifies, the government may seek to offer at trial evidence of these prior convictions and the heroin recovered from the defendant, pursuant to Fed. R.

Evid. 609.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By:

/s/Antoinette E.M. Leoney
ANTOINETTE E.M. LEONEY
Assistant U.S. Attorney

Date: May 2, 2007

CERTIFICATE OF SERVICE

Suffolk, ss.

Boston, Massachusetts
May 10, 2007

I, Antoinette E.M. Leoney, Assistant U.S. Attorney, do hereby certify that I have this day served a copy of the foregoing by electronic court filing notice to defense counsel, Timothy Watkins, Esq., Federal Defender's Office, 408 Atlantic Avenue, 3rd Fl., Boston, MA 02210.

/s/Antoinette E.M. Leoney
ANTOINETTE E.M. LEONEY